

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Patrick Lynn, Police Chief, 954-693-8320

PREPARED BY: Daniel J. Stallone, Code Compliance Official

SUBJECT: Resolution

AFFECTED DISTRICT: 4

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO. 07-1217 FROM \$5000.00 IN AMOUNT TO \$1010.98; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Town of Davie Code Compliance Division has determined that the violations of town code sections 9-51(b) and 12-33(U) are corrected and mitigation is possible.

The Code Compliance Division initiated a code compliance case on September 7, 2007, against the former property owner, Mr. Hassanali Honarvar. The case was related to the failure of the property owner to adhere to code section 9-2(b) as it related to the accumulation of garbage and debris on the premises; and, 12-33(U) for the nuisance/eyesore created by the general appearance of the property which was not being maintained in a neat and clean manner.

On November 6, 2007 the Town's Special Magistrate issued an Order Imposing Municipal Code Enforcement Lien and Administrative Fine in the amount of \$5000.00 for ten (10) days of non- compliance for the above named violations.

On November 4, 2008, a mitigation hearing was held before the Town's Special Magistrate and testimony from the current owner, Ms. Fariba Shakouri, and her counsel was heard. Through such testimony, it was discovered that the property was recently conveyed to Ms. Shakouri and her children by her former husband, Mr. Honarvar. It was at that time that Ms. Shakouri was informed of the outstanding lien balance on the property which resulted when the subject property was in Mr. Honarvar's sole possession and all violations were cited and fined.

The Special Magistrate heard the mitigating testimony and recommended that the lien amount be reduced to \$1010.98 which is the amount of those costs accrued by the town in this case.

PREVIOUS ACTIONS:

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): The Code Compliance Division submits the mitigation guideline amount which is equal to \$1635.98 to the Town Council for their consideration. Additionally, the Special Magistrate has provided an advisory opinion based upon his review of the case and those factors presented to him at a mitigation hearing held on November 4, 2008. The Special Magistrate's recommendation is that the lien be reduced to the amount of \$1010.98, which is the amount that corresponds to those costs incurred by the Town in the case.

Attachment(s): Resolution, Mitigation worksheet, Mitigation Application Review Form, Mitigation Request letter from applicant, Mitigation Request Summary, Special Magistrate Advisory Opinion, Mitigation Guidelines.

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF A CODE COMPLIANCE LIEN IN CASE NO. 07-1217 FROM \$5,000.00 IN AMOUNT TO \$1,010.98; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Fariba Shakouri has requested a mitigation of a Code Compliance lien from \$5,000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of Code Sections 9-51(b) and 12-33(U) were corrected; and

WHEREAS, the Town of Davie Code Compliance Division Special Magistrate has proscribed a mitigation amount equal to \$1,010.98; and

WHEREAS, Fariba Shakouri and the Town of Davie Code Compliance Division are agreeable to the mitigation of the Code Compliance lien; and

WHEREAS, the Town Council is agreeable to such mitigation of the Code Compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain Code Compliance lien arising out of Case No. 07-1217 in the amount of \$5000.00 against Fariba Shakouri, is hereby mitigated in amount to \$1,010.98.

SECTION 2. That this mitigated amount of \$1,010.98 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$1,010.98 not be paid within the specified time, the lien shall revert to the original amount of \$5,000.00.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2008

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2008

**TOWN OF DAVIE CODE COMPLIANCE
MITIGATION WORKSHEET
CASE #07-1217**

Respondent(s): Fariba Shakouri

Address: 13850 SW 20th Street
Davie, FL 33331

Fine/Lien Amount: \$5,000.00

Mitigation Recommendation:
(as per approved mitigation guidelines)

A) 7.5% of \$5,000.00 = \$ 375.00

B) 5% of \$5,000.00 for
10 days of non compliance = \$ 250.00

c) Mitigation Base Fee = \$ 1,010.98
(Town costs incurred by
Code Compliance)

Total = \$ 1,635.98

**TOWN OF DAVIE
CODE COMPLIANCE DIVISION
MITIGATION APPLICATION REVIEW FORM**

SECTION 1: (To be completed by Code Compliance Supervisor)

1. Name of Respondent(s)/Applicant(s): Fariha Shakouri
2. Case Number: Code Compliance Case no. 07-1217
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$5,000.00
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections? X Yes No
(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to further processing.)
5. Mitigation amount recommended by the Town Council approved guidelines: \$1,635.98

SECTION 2: (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative Fines:

Please see attached.

Signature: Muhammad, legal rep for Respondent Date: 10/30/08

2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to: \$ 500.00

NOTE: The Code Compliance Division will submit your request to the Town Council to either accept or deny your mitigation amount; if your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by the Town Council. In the event the Town approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

SECTION 3: (To be authorized by Department Director)

The Code Compliance Division hereby submits the request made by the Respondent/Applicant, in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number from a total of \$5,000.00

to the amount requested by the Respondent/Applicant which is \$ 500.00 for consideration by the Town Council.

Daniel A. Stallone
Code Compliance Official

11-19-08
Date

Department Director


Date

Section 2:

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Liens/Administrative Fines:

Reply: Mrs. Shakouri acquired the subject property as part of a settlement agreement with her former husband, as he had no other assets or income for the provision of child support. Mrs. Shakouri was unsophisticated in real estate transactions, and only learned of the liens after she acquired title. After she learned of the liens, she hired workers to correct the problems, and contacted our offices (Law Office of Arthur Vincent) in order to resolve the code compliance case.

Mrs. Shakouri is a hardworking mother of two young children. Her former husband does not pay child support and has abandoned his family. Mrs. Shakouri acknowledges her error in not checking for liens prior to acquiring title to the property. Under the circumstances, we respectfully request that an administrative fine of \$500.00 be imposed on Mrs. Shakouri, as we understand that the Town has incurred expenses and is required to enforce the Town Codes. We feel this amount would be fair to all involved. Thank you.


Robert C. Wright, Esq.
Law Office of Arthur Vincent
800 E. Broward Blvd, Suite 607
Ft. Lauderdale, FL 33301

Note: This form has been signed by the Respondent Fariba Shakouri's legal representative. Mrs. Shakouri will attend the hearing on Tuesday November 4, 2008, and will be available to sign this form at the hearing if necessary. Thank you.

Instrument prepared by:
Arthur Vincent, Esq.
Cumberland Building
800 East Broward Blvd., Suite 607
Ft. Lauderdale, FL 33301
Tel. 954.924.9494

(Space Above This Line For Recording Data)

NOTICE OF CLAIM OF INTEREST IN REAL PROPERTY

NOTICE IS HEREBY GIVEN that Fariba Shakouri, 1227 Fairlake Trace, Unit 710,
Weston, Broward County, Florida 33326, hereby gives notice that she is claiming an interest in
the following described real property:

FLA FRUIT LANDS CO SUB NO 1, 2-17 D 15-50-40
W 125 OF E 1170 OF N 1/4 OF N 1/2

SEE EXHIBIT "A" FOR ADDITIONAL LEGAL DESCRIPTION

Physical address: 13840 SW 20th Street, Davie, Broward County, Florida.
Tax Folio # 10015-01-03290

Fariba Shakouri has an interest in said property as a result of her current marriage to Hassanali
Honarvar, the present owner of record of the property, by virtue of a warranty deed, CFN # 102449779, O.R.
BK 34178, Pg 701, the present owner of record of the property. Said interest is a result of her contributions
during the marriage in the accumulation of monies paid for the property. Notice is hereby given that Fariba
Shakouri intends to exercise her right to acquire her marital share of this property.

IN WITNESS THEREOF, Claimant has signed and sealed these presents the day and year first above
written.

Dated: June 12, 2006

Witness Signature

LISA E. ALVAREZ

Witness Printed Name

Witness Signature

Witness Printed Name

Claimant Signature: Fariba Shakouri



This is to certify that on this 12TH
Day of June 2006, each a copy of
this NOTICE OF INTEREST IN
PROPERTY has been mailed to
the owner at the address contained
herein.

County Administrator

By: [Signature] Deputy

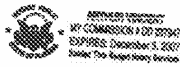
(3)

Page 2 of NOTICE OF CLAIM OF INTEREST IN REAL PROPERTY

STATE OF FLORIDA

COUNTY OF BROWARD

THE FOREGOING INSTRUMENT was acknowledged before me on June 12, 2006, by Fariba
Shakouri who is personally known to me _____ or has produced Pin De L'Amay as identification
DL's 260-240-71-602-0



At the
Notary Public

EXHIBIT "A"

The West 125 feet of the West 1170.34 feet of the North 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 18, Township 50 South, Range 40 East, of the Public Records of Broward County, Florida, and less the North Twenty five feet (N 25') thereof for road right-of-way.

MITIGATION REQUEST SUMMARY

DATE: October 24, 2008

NAME: Fariba Shakouri

ADDRESS: 13850 SW 20 Street
Davie, FL 33331

CASE: 07-1217

SUMMARY:

Date respondent cited: September 7, 2007

Date of Final Order: September 27, 2007

Non-Compliance Hearing(s): November 6, 2007

Fine/Lien(s) Imposed:
\$5,000.00

Department	Guideline	recommended	mitigation	amount:
				\$1,635.98
Special	Magistrate	recommended	mitigation	amount:
				\$1,010.98
Amount the respondent desires to pay:				\$
500.00				

The property owner was cited for the following violations of the Town of Davie Code:

9-2 (b): Accumulation of Garbage
12-33(U): Nuisance/Eyesore

The mitigation amount from Town Council guidelines equals \$1,635.98; the Special Magistrate's recommended mitigation amount of \$1,010.98 will cover the Town-incurred costs. Recently, the property owner, Ms. Shakouri, requested a mitigation amount equal to \$500.00; the mitigation guideline amount of \$1,635.98 and the Special Magistrate's recommendation should be considered by the Town Council and the respondent given 45 days to pay the approved mitigation amount.

DANIEL J. STALLONE
CODE COMPLIANCE OFFICIAL

THE TOWN OF DAVIE, Broward
County, Florida, a Florida
Municipal Corporation,

TOWN OF DAVIE
CODE COMPLIANCE
SPECIAL MAGISTRATE

CASE NO. 07-1217

Petitioner,
v.

FARIBA SHAKOURI,

Respondent.

MITIGATION ADVISORY OPINION

THIS MATTER having come before the TOWN OF DAVIE, SPECIAL MAGISTRATE, on a Mitigation Application, after notice, on the 4th day of November, 2008, the Special Magistrate having heard the statements of the Town Code Compliance Officer and the Respondent, having reviewed the Town File in the matter, and being otherwise fully advised in the premises, finds:

FINDINGS OF FACT:

1. Upon testimony heard and the evidence received, it appears that at all times relevant hereto from the outset of the original Notice Of Code Violations, legal title to the subject property at 13850 S. W. 20th Street, within the Town of Davie was held solely by HASSANALI HONARVAR, the husband of Respondent, FARIBA SHAKOURI and it

appears she did not receive any notice of the violation nor of the hearing to impose the Municipal Code Enforcement Lien and Administrative Fine rendered by the Special Magistrate on the 7th day of November, 2007 in the amount of \$ 5,000.00.

2. Subsequent thereto the parties' marriage was dissolved and husband, HASSANALI HONARVAR conveyed the subject property to his former wife, FARIBA SHAKOURI by a quit-claim deed dated December 12, 2007 and recorded in Official Records Book 45635 at page 1670 of the Public Records of Broward County, Florida. Subsequent to that time she learned of the Town of Davie lien and is presently in compliance with Code Sections 9-2(b) and 12-33(U). On October 30, 2008, Respondent, through counsel, filed with the Town a Mitigation Application Review Form requesting that the original lien in the amount of \$ 5,000.00 be reduced to \$ 500.00. Pursuant to the current Mitigation guidelines the Town provided the Special Magistrate with a Mitigation Worksheet, copy attached, which recommends that the total Mitigated Damage Recommendations be reduced to \$ 1,635.98.

ADVISORY OPINION

3. Based upon the foregoing, and in light of Ms. SHAKOURI'S lack of knowledge of or notice of the violations or the lien, the Special Magistrate recommends that the amount of the fine be reduced to \$ 1,010.98 which covers the amount of Town costs incurred by Code Compliance Division and is considered to be equitable and fair to both the Town and the property owner.

DONE AND ORDERED in Davie, Broward County, Florida this 6th day of November, 2008.

TOWN OF DAVIE

BY:


Richard E. Conner, Esquire
Special Magistrate

Copies furnished:
FARIBA SHAKOURI
(CERTIFIED MAIL)
Robert C. Wright, Esquire
Clerk, Special Magistrate Hearing
Town Prosecutor
Code Inspector

MITIGATION GUIDELINES

FINE AMOUNT

RECOMMENDATION

Fine to \$10,000	7.5% of the amount plus an additional 5% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$10,000 - \$20,000	10.0% of the amount plus an additional 6% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$20,001 - \$30,000	12.5% of the amount plus an additional 7% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$30,001 - \$40,000	15.0% of the amount plus an additional 8% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$40,001 - \$50,000	17.5% of the amount plus an additional 9% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$50,001 - \$60,000	20.0% of the amount plus an additional 10% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$60,001 - \$70,000	22.5% of the amount plus an additional 11% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$70,001 - \$80,000	25.0% of the amount plus an additional 12% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$80,001 - \$90,000	27.5% of the amount plus an additional 13% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$90,001 - \$100,000	30.0% of the amount plus an additional 14% For each sixty (60) days of violation plus actual costs incurred by the Town.
Over \$100,000	35.0% of the amount plus an additional 15% For each sixty (60) days of violation plus actual costs incurred by the Town.

This schedule would be utilized for first time violators and repeat violators.

MITIGATION BASE FEE (COST OF CASE ADMINISTRATION AND DEVELOPMENT) SHALL BE ADDED TO THE TOTAL DERIVED FROM APPLICATION OF ABOVE GUIDELINES. THE MITIGATION BASE FEE IS BASED UPON THE EXPENSES INCURRED BY TOWN EMPLOYEES AND ALL ACCOMPANYING COSTS.
MITIGATION BASE FEE* \$ 1010.98

*Subject to revision as per current staff salaries.